

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In re)
)
Amendment of Part 74 of the)
Commission's Rules With Regard) MM Docket No. 93-24
to the Instructional Television)
Fixed Service)

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

JOINT COMMENTS

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ACS ENTERPRISES, INC.
CABLEMAXX, INC.
MULTIMEDIA DEVELOPMENT CORP.
RAPID CHOICE TV, INC.
SUPERCHANNELS OF LAS VEGAS, INC.
WIRELESS HOLDINGS, INC.

Robert J. Rini, Esq.
Stephen E. Coran, Esq.

Rini & Coran, P.C.
Dupont Circle Building
1350 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 296-2007

August 29, 1994

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SUMMARY

The wireless cable television operators submitting these Joint Comments generally support the Commission's efforts to improve the integrity and efficiency of the processing of ITFS applications. The Commission should adopt a window filing system for ITFS applications, with windows opened on a frequent (at least quarterly) basis and opened for no more than a week at a time. The Commission should provide one exception to the window filing system to permit the filing of amendments and modifications outside of the windows in certain limited circumstances to facilitate expeditious resolution of mutually-exclusive situations and the co-location of facilities.

With the adoption of the window filing system, some of the Commission's other proposals are unnecessary or, if adopted, would have adverse effects. Because much of the opportunity for speculation in ITFS licenses is now past, rules providing for upfront financial disclosures or for caps on the maximum number of applications are unnecessary and could hamper the legitimate efforts of ITFS applicants and the wireless cable operators who do business with them. Should the Commission nevertheless determine that some greater financial showing is warranted by applicants, it is suggested that the Commission require ITFS applicants which propose funding from a wireless cable operator to submit a financial certification by the operator. In addition, the Commission could reinforce the certification process by initiating a policy of random spot-checks of financial qualifications.

To simplify its rules and make them more consistent from an engineering standpoint, the Commission should eliminate the troublesome definition of "major" and "minor" changes in present ITFS rules and policies and replace them with the definitional "baskets" contained in Part 21 of its rules for MDS. In addition, the Commission should redefine its service area rules for both ITFS and MDS based on a power and antenna height formula to more accurately reflect technical and operational realities.

To encourage investment in wireless cable and the provision of financial support to ITFS educators, the Commission should permit an ITFS operator and wireless cable operator to enter into an excess capacity lease agreement with a term that extends beyond the ITFS station's current license term.

To maximize attainment of the Commission's objectives, it should also adopt two internal procedures. The Commission should, when possible, process ITFS and MDS applications on a market-by-market basis if requested by all of the affected applicants. In addition, the Commission should adopt a procedure for expedited Commission action in specific instances, but with the requirement that a wireless cable operator have access to a sufficient number of channels in a market to qualify for such processing.

With the refinements set forth in these Joint Comments, the wireless cable operators also support other Commission proposals to improve the ITFS application processes.

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JOINT COMMENTS

ACS Enterprises, Inc.,¹ CableMaxx, Inc.,² Multimedia Development Corp.,³ Rapid Choice TV, Inc.,⁴ Superchannels of Las Vegas, Inc.⁵ and Wireless Holdings, Inc.⁶ (together, the "Coalition of Wireless Cable Operators" or "Operators"), by their attorneys, hereby submit these Joint Comments in response to the Commission's

¹ACS Enterprises, Inc. and its wholly-owned subsidiaries operate wireless cable systems in the Philadelphia, Cleveland, and Bakersfield (California) markets, serving approximately 52,500 subscribers.

²CableMaxx, Inc. operates wireless cable systems in the Texas markets of Austin, San Antonio, Temple-Killeen and Waco, serving approximately 29,000 subscribers. In addition, it has entered into agreements to acquire wireless cable systems in Salt Lake City and El Paso and has options to acquire other markets.

³MultiMedia Development Corp. operates wireless cable systems in the New Mexico markets of Albuquerque, Las Cruces and Santa Fe, serving approximately 4,000 subscribers.

⁴Rapid Choice TV, Inc. operates a wireless cable system in Rapid City, South Dakota, serving approximately 2,500 subscribers.

⁵Superchannels of Las Vegas, Inc. operates a wireless cable system in the Las Vegas market, serving approximately 3,800 subscribers.

⁶Wireless Holdings, Inc. and affiliated companies operate wireless cable systems in the San Francisco/San Jose, Spokane and Tampa markets, serving approximately 19,800 subscribers; numerous other markets are under development.

Order and Further Notice of Proposed Rule Making ("Notice"), FCC 94-148, released July 6, 1994 in the above-captioned proceeding.

Introduction

Each of the Operators operates and is in the process of further developing wireless cable systems in various markets throughout the country. Collectively, the Operators serve more than 110,000 subscribers, representing approximately twenty percent of all wireless cable subscribers,⁷ and have line-of-sight coverage to more than 7.5 million homes.

In their efforts to operate and develop markets for wireless cable service, each of the Operators has a need to satisfy consumer demand for receiving a "critical mass" of channels, to compete with existing cable operations in urban markets and to provide a sole source of multichannel video programming to some underserved rural markets. Consequently, each recognizes the dual benefits of leasing airtime from Instructional Television Fixed Service ("ITFS") licensees for commercial purposes and, at the same time, promoting distance learning. The Operators generally support the Commission's further efforts to improve the efficiency of the Commission's ITFS application processing and to curb abuses by speculators. Many of the Commission's proposals in the Notice would advance the interests of educators and wireless cable

⁷According to The Kagan Wireless Cable Databook (January, 1994), the wireless cable industry served 401,000 subscribers as of the end of 1993. Kagan predicted that the industry would serve 582,000 subscribers by the end of 1994 and would serve more than 2,000,000 subscribers by the year 2000.

operators alike and should, with the refinements set forth below, be adopted.

The Operators recognize, however, that the Commission's objectives will not be maximized unless two internal procedures, not requiring the amendment of Commission rules, are implemented. First, the Commission should, whenever possible, process ITFS and Multipoint Distribution Service ("MDS") applications on a market-by-market basis, which will further expedite processing and provide greater certainty to operators assembling channels. Second, filing windows, if adopted, should be opened with sufficient frequency -- at least four times each year -- in order to expedite processing and, in turn, service to the public. Only with these internal commitments will the FCC's proposals serve the interests of educators, operators and the public alike.

I. THE COMMISSION SHOULD ADOPT THE PROPOSED WINDOW FILING SYSTEM FOR NEW STATIONS, "MAJOR" AMENDMENTS AND "MAJOR" CHANGES.

The Operators agree with the Commission's tentative conclusion that a window filing system should be adopted for ITFS new station applications, "major" amendments to pending applications, and "major" changes to existing stations.⁸ The Commission correctly recognizes that the present "A/B" cut-off system is inefficient to

⁸As set forth *infra*, the Operators agree with the Commission that the present definitions of "major" and "minor" changes should be modified, and urge the Commission to eliminate those definitions in favor of conforming the ITFS rules to the definitional "baskets" contained in Sections 21.40, 21.41 and 21.42 of the Commission's rules.

administer and, through its cumbersome public notice procedures, can have the perverse effect of prompting the filing of competing applications or amendments for obstructive or speculative purposes. The window filing system has proven itself to be a useful improvement many times over at the Commission, in such potential high-demand filing opportunities as Low Power Television and the Commission's MM Docket No. 80-90 allotments of new FM broadcast frequencies.

As stated above, should a window filing system be adopted, it is essential that such filing windows be opened on a frequent basis in order to ensure that ITFS applicants and licensees have an opportunity to file applications without unreasonable delay. Windows should be opened, at the very least, on a quarterly basis.⁹ In addition, filing windows should be opened for no more than one week at a time in order to expedite processing and to deter the filing of speculative "copy-cat" proposals.

The Commission should provide one exception to the window filing system in order to facilitate expeditious resolution of

⁹Opening such windows on a quarterly basis (or more frequently) also would address the concern of previous commenters and the Commission that ITFS licensees relying on National Telecommunications and Information Administration ("NTIA") funding must be able to file with the Commission in December to meet certain NTIA deadlines. Rather than the Commission making special provision for the filing of such applications outside of the window pattern, the Commission should simply time the quarterly (or more frequent) windows such that a window falls within the month of December. This would avoid needless burden upon the Commission staff administering the in-flow of applications. No preliminary review of such filings would be necessary to verify that they should be accepted for tender and none would have to be "warehoused" in the processing line awaiting the next window batch.

mutually-exclusive situations. The Commission's rules should permit the filing of amendments or modifications to pending proposals, construction permits and licensed stations outside of filing windows, and the "major" change cut-off rules waived, where such changes would eliminate mutual exclusivity or facilitate the co-location of channels.¹⁰ Such an exception would aid the Commission's processes by allowing those conflicts to be resolved in a timely manner without burdening the Commission's decision-making resources.

II. THE OPERATORS SUPPORT THE COMMISSION'S EFFORTS TO BRING MORE INTEGRITY AND CERTAINTY TO ITFS APPLICATION PROCESSING.

The Operators support the Commission's efforts to improve ITFS application processing. Certainly, any changes which bring more integrity to the applicant pool and more certainty and simplicity to the Commission's technical rules and processing procedures would both promote the Commission's objectives and assist ITFS applicants and licensees and the wireless cable operators that do business with them. The Operators believe that some of the Commission's proposals have great merit and that others are either unnecessary or would have unintended negative results.

¹⁰Current policies permit the amendment of pending applications to resolve mutual exclusivity, but FCC staff has been reluctant to permit construction permits to be modified in such circumstances. See Instructional Television Fixed Service (Reconsideration), 59 RR2d 1355, 1381 n. 47 (1986). This anomaly should be rectified so that pending applications, construction permits and licensed facilities alike can be modified outside of filing windows where mutual exclusive situations would be resolved or where such changes would facilitate the co-location of at least twenty channels.

A. Financial Qualifications.

Although the past history of speculative applications for ITFS suggests a need for increased scrutiny of the bona fides of applicants, the Operators believe that a modification of the rules to require financial disclosures may not be necessary and may disserve the public interest. Many of the "land rush" abuses of ITFS by speculators have already occurred, and currently are beyond the scope of Commission enforcement. At this time, further wholesale speculation in ITFS licenses may not be possible inasmuch as much of the nation's ITFS spectrum that would likely be the subject of speculation already is either licensed or the subject of pending applications. As for those areas of the nation which are still open to new ITFS service, adoption of the window filing system would eliminate the present problem of speculators identifying opportunities on "A" cut-off lists and filing competing proposals intended only to extract greenmail from legitimate wireless cable operators.

As the Commission recognizes, requiring up-front submission of financial documentation would impose a significant burden on ITFS applicants, and may, as the Commission suggests, require even more of the Commission's already overburdened resources to analyze the submissions. Moreover, requiring financial disclosure could have adverse consequences on the Commission's stated public interest goal of fostering the development and competitiveness of wireless cable systems. In instances where an ITFS applicant is relying in whole or part on an arrangement with a wireless cable

operator for financing, a rule requiring routine disclosure of such information could disclose sensitive cost and other information to competitors of wireless cable systems.¹¹ Such a requirement would thus undermine the development of leasing and other cooperative arrangements between ITFS educators and wireless operators and thus threaten a symbiosis which the Commission itself recognizes is now responsible for the development of the great majority of ITFS systems.

Should the Commission determine that some rule change is nevertheless necessary, the Operators suggest that wireless cable operators which have agreed to supply funding to ITFS applicants be required to submit a certification with the ITFS application that the wireless operator will, if necessary, assume construction and the first three months' operating costs of the ITFS applicant and that the wireless operator has the financial ability to do so. This direct certification, by a lessee expected to provide financial support, would deter insincere wireless speculators from misusing educators and the ITFS application process, while avoiding any burdensome up-front showing of sensitive information by legitimate parties. The applicant would be required to precisely determine those costs and have on hand a budget showing how those costs would be met.

¹¹Not only could such disclosure injure a wireless cable operator by the public release of sensitive financial information, but, as the Commission points out, such details could also provide a basis for frivolous petitions filed against the ITFS application for anti-competitive purposes.

Moreover, wireless cable operators found to have misrepresented their financial ability or commitment would be subject to possible criminal penalties under 18 U.S.C. §1001. Such a finding would also be deemed relevant to any other pending applications sponsored by that operator and could form the basis for license revocation. In addition, the Commission could place greater reliance on certifications by the ITFS applicant (and, if applicable, a lessee) by implementing a policy of random spot-checks of financial qualifications. Such an affirmative system of auditing certifications, in which the Commission could require from particular applicants or lessees some greater showing (under seal if necessary to protect sensitive information), would provide a deterrence to abuse of the system.

B. Application Caps.

Adoption of a window filing system, coupled with the reforms in the application processing system suggested herein, would serve substantially to filter out any remaining potential for speculation and warehousing in ITFS without the need to impose application caps. The addition of application caps to the ITFS rules would be counterproductive to the rapid development of wireless cable systems (especially with respect to modification applications) and might prove to be a logistical nightmare. Application caps also would unfairly penalize the operators of newly-developing systems in their efforts to rapidly add subscribers.

As a point in fact, the wireless cable industry is in the midst of a dynamic consolidation where large, well-financed

wireless cable operators are acquiring lease rights from under-financed operators. As part of the market assembly process, the emerging multi-system operators may be able to support a more ambitious business plan that requires the re-location of the system transmit site which in turn would facilitate improved service and in some cases, service designed to compete directly with cable. This scenario is playing out in dozens of markets across the country. Caps on the filing of modification applications would be contrary to the objectives of Congress and the FCC and would unnecessarily delay market development efforts and the provision of wireless cable service to the public.

Moreover, caps on the filing of new applications, with limits on common ownership or interests, would be burdensome and difficult to enforce and merely invite evasion in a service such as ITFS, where a potential speculator might anticipate the practical limitations of enforcement by an already-overburdened Commission staff. As a result, such a rule could fail to have the intended effect upon abusers of the system, while limiting the flexibility of legitimate ITFS operators and applicants in developing service to the public. As the Commission notes, such a rule could limit further development of ITFS systems to the extent they rely on funding from wireless cable lessees, as well as retard rapid development of wireless cable systems capable of competing in the rapidly growing video marketplace. Other rule and policy changes can restrict abuses without the need for application caps.

C. Expedited Consideration of Applications.

The Operators urge the Commission to adopt a formal procedure allowing ITFS applicants, permittees and licensees to request expedited consideration of applications. The Operators suggest that the Commission adopt a strict requirement that the wireless operator demonstrate that it has access to sufficient channels in the market to implement its business objectives. This requirement is consistent with the policy objectives underlying Section 74.990, wherein the Commission requires that a wireless operator demonstrate that it has access to a minimum of four channels in order for the operator to be eligible to apply for up to eight vacant ITFS channels to be licensed directly to the operator. This threshold requirement would serve to limit the number of requests for expedited action while not unduly restricting its use by wireless operators that are genuinely poised to establish competitive video service in their markets.

In the interests of efficiency and orderly administration of this procedure, the Operators urge the Commission to implement it by establishing a small committee of staff members to review monthly all requests for expedited grant and, as may be deemed necessary, require status filings to demonstrate adequate progress in compliance with the terms of the grant.¹² Because expedited action would be premised on prompt construction and initiation of

¹²The status filings might address such matters as equipment orders, progress of actual construction, and testing of equipment.

service, extensions of the required construction period should only be granted in such cases under compelling circumstances.

The Commission's processing of applications for extensions of time to construct (both in the context of an expedited action procedure and in general) are an important element of the efficiency and integrity of the ITFS licensing process. Under present Commission procedures, extensions of time for construction are granted following public notice of the construction permittee's extension application. However, they are often acted upon too quickly for the filing of any objection to or comment upon the extension prior to grant. The Operators urge the Commission to adopt a policy of providing public notice of an extension application at least thirty days in advance of any action taken on the application. This would rightfully allow the public an opportunity to submit objections or comments on such matters, and afford the Commission a potentially important source of additional information as it weighs the interest of a permittee in extending its permit against the public's ultimate entitlement to the timely initiation of service.

D. Assignment of Construction Permits.

The Operators support the Commission's proposal to formalize its current practice and limit ITFS permittees to their out-of-pocket expenses upon the sale of unbuilt ITFS facilities. Such a formal rule would provide additional disincentive to applying for or warehousing ITFS licenses for speculative purposes.

E. Application of the Four-Channel Rule.

The Commission's proposal to adopt a 20-mile area of operation definition as part of the four-channel rule would, in practice, result in an arbitrary limitation which has no basis in reality. In the Notice, the Commission itself observes that service might be rendered by ITFS facilities to points up to 35 miles away.¹³ Rather than applying an artificial mileage standard, the Commission should base its rule on the protected service areas of the facilities. If their actual service areas overlap, then the four-channel restriction would be implicated.¹⁴

F. Frequency Offset.

The Commission should not require frequency offset until such time as it is proven to be a reliable method of interference protection. Pending further technical study, the Commission should forbear from adding such parameters to its already complex technical analyses of proposed facilities. The Commission should instead continue the present policy of allowing offset only in cases where all the affected licensees consent.

¹³As the Operators note below in their discussion of receive-site interference protection, it is also arbitrary to limit protected service to even 35 miles in cases where stations can demonstrate service beyond that distance.

¹⁴As set forth below, the Commission should also revise its definition of protected service area.

G. Protected Service Area.

The Operators support the proposal of the Wireless Cable Association International, Inc. and others to change the definition of protected service areas and urge the Commission to adopt those changes. That proposal would define the MDS protected service area according to an easily-understood formula based on equivalent isotropic radiated power ("EIRP") and the height above average terrain ("HAAT") of the transmit antenna.¹⁵ The current 15-mile fixed radius under Section 21.902 (or any other proposal based on a fixed radius) has been shown to be a poor measure of interference protection that does not take into consideration state-of-the-art equipment and interference protection techniques.¹⁶

The Operators urge the adoption of this proposal, and advocate its extension, as modified infra, to the ITFS service. The redefinition of the protected service area would give wireless cable operators and educators the certainty of interference protection in areas that currently are being served with a high-quality signal but which are potentially subject to disruption in

¹⁵Many of the Operators previously have demonstrated their support for this position. See Comments of the Coalition of Wireless Cable Operators filed August 30, 1993 pursuant to Public Notice Mimeo No. 34165, released July 28, 1993 ("Coalition Comments"). In Amendment of Parts 1, 2 and 21 of the Commission's Rules, 8 FCC Rcd 1444 (1993), the Commission indicated it would "revisit ... several requests" proposing the re-definition of the protected service area.

¹⁶As set forth below, the Operators urge the Commission to categorize protected service area requests as a major modification.

service at a future date. This current fear acts as a disincentive to the marketing of wireless cable service in those areas.¹⁷

H. Receive-Site Interference Protection.

While receive-site interference protection is essential for educators to fulfill their mission through ITFS, the Commission rightly recognizes that there may be instances of abuse of the rule to the detriment of ITFS, including cases where ITFS receive-site locations are licensed merely in an attempt to provide protection for wireless cable lessees. Nevertheless, the Commission's proposal to establish a 35-mile limit on receive-site protection would impose an artificial boundary which does not reflect the possibility of ITFS service beyond such a distance in some instances. Rather than setting an absolute limit, the Commission should revise and simplify its receive-site protection rule as it pertains to ITFS stations which have entered into excess capacity lease agreements with wireless cable operators. For those stations, receive-site protection should automatically include all receive points within the station's protected service area. In addition, such stations should be allowed protection for receive sites outside of the protected service area if the applicants demonstrate that they can serve those sites.

¹⁷The Coalition Comments proposed how such rules could be implemented. See Coalition Comments at pp. 11-12.

I. Major Modifications.

The Operators agree with the Commission that its current rules delineating major and minor modifications are inconsistent and fail properly to regulate facility changes. Rather than redefine what is a "major" or "minor" change under the present rule format, the Commission should eliminate those definitions and conform its modification classifications with those for MDS under Part 21. From an engineering standpoint, ITFS and MDS transmitting equipment, signal propagation and other transmission parameters are identical. Some of the channels of the two services are adjacent and are interleaved such that modification of a station in one service on such channels can have an effect upon and must be coordinated with the other service. Thus, the Commission's substantive treatment of a facility modification should be the same in each service.

For the sake of simplicity and efficiency, for both the Commission's staff and the public, the ITFS major change rules should be conformed with the Commission's Part 21 provisions. The Commission should modify the ITFS rules to adopt the interference-based "basket" definitions contained in Sections 21.40, 21.41 and 21.42 of the Commission's Rules,¹⁸ which definitions are technically

¹⁸Section 21.42 establishes a limited category of technical modifications that can be made without prior Commission consent. These changes are not predicted to have any impact on interference. Section 21.41 establishes a second category of minor technical changes that are automatically authorized after a 21-day public notice period. The public notice requirement requires Commission staff to determine that the proposed change will not increase interference to other licensees. All other technical modifications are covered by Section 21.40. For a complete discussion of these

sound and have proven to be practical in their application.¹⁹ Adoption of the Part 21 provisions would serve the public interest by simplifying and making consistent the regulation of the sister services,²⁰ while achieving the improvements that the Commission seeks.²¹

J. FAA Authorization.

The Operators support the Commission's proposal to require applicants to inform the Commission of Federal Aviation Administration ("FAA") air hazard issue determinations. Although the FAA generally sends these determinations to the FCC, practical experience indicates that many fail to be associated with the proper application or request, engendering delays in processing while FCC staff attempts to locate these determinations.

"baskets" and the predicates therefore, see Public Fixed Stations (Revision of Part 21), 63 RR2d 1344, 1367-70 (1987).

¹⁹The Operators appreciate that, if these rule changes are adopted, ITFS changes which were deemed "minor" under existing rules would be deemed "major" under the MDS-parallel rules. Nevertheless, the conformance of ITFS and MDS technical rules would facilitate market-by-market processing and create greater certainty in the technical modification process. Applications on file as of the effective date of the rules should be grandfathered.

²⁰Conforming these technical rules for ITFS and MDS is likely to produce direct benefits to applicants and licensees, inasmuch as engineering services would only be required to comply with one system of definitions.

²¹Under the modified rules the Commission should treat requests for protected service areas as a major modification, in view of the potential effect of such protection rights upon other stations and applications.

K. Interference Studies.

If the terrain shielding analysis model identified by the Commission is a valid predictive tool, the Operators agree with the Commission's proposal that terrain profiles be required. Analyses of terrain shielding may serve to resolve some mutual exclusive situations that now appear to exist absent such information, and offers the potential for the authorization of additional stations and service to the public.

L. Reasonable Assurance of Receive Sites.

The Operators support the Commission's proposal to require ITFS applicants to submit a letter authenticating each receive site. Such letters could potentially address three licensing issues which, the Operators believe, rank in relative importance as follows: (a) the eligibility of an applicant for ITFS (in cases where the applicant is not itself accredited and instead derives its eligibility from accreditation of its receive sites); (b) the rank of an applicant in an application tie-breaking situation (where the number of students served at those receive sites is relevant); and (c) the licensing of receive sites for their protection from interference. Although letters should be required to be submitted in all instances, the level of detail required in a letter should depend on the matter to which it pertains. For example, more detail should be required in each letter establishing eligibility for ITFS than a letter intended merely to establish that a receive site exists and should be protected. To require the

same level of detail in all site letters for all purposes would risk unduly burdening some ITFS licensees and those who wish to be served by them, while not requiring sufficient documentation where there may be greater risk of, and harm from, misrepresentation. The Operators urge the Commission to specify exactly what will be required in letters in each instance.

M. Accreditation of Applicants.

The proposal to amend the ITFS application Form 330 to provide more information on accreditation matters may improve the application process. However, the Commission should not deny interference protection to non-accredited receive sites. Although the fundamental purpose of ITFS is to serve the educational needs of accredited institutions, the Commission must recognize the public interest value of ITFS educators providing service to sites which do not themselves have official accreditation. Whether such sites may be deriving beneficial use from the ITFS service does not turn on accreditation. ITFS programming can be used and useful at sites without official accreditation. Such service is an important by-product of the formal education system, and where it is desired by a user and is being provided, it should not be denied interference protection. Commission concerns about the legitimacy of particular sites is best addressed by the Commission's proposed receive-site assurance letter requirement.

III. OTHER CHANGES

The Commission also should amend its policies to permit wireless cable operators and ITFS applicants to enter into excess capacity lease agreements with terms that extend beyond the license term, subject, of course, to renewal of the license. The existing policies, which limit lease terms to the license term, discourage investment in wireless cable. Investors are less likely to provide financing to wireless cable operators without the assurance that channel capacity will not be diminished prematurely before it can recoup its investment.²² By granting lessors and lessees the authority to freely negotiate lease terms, such assurances can be provided, to the benefit of ITFS licensees and wireless cable operators. Moreover, because a lease would automatically terminate if a renewal application were to be denied, no harm would befall the integrity of the Commission's policies. Consequently, this is a proposal that has multiple benefits without any risk of harm whatsoever.

Conclusion

The Coalition of Wireless Cable Operators welcomes the Commission's further efforts to improve the integrity and processing efficiency of the Commission's ITFS application process.

²²This problem is particularly acute in large metropolitan areas where ITFS licensees pioneered systems in the 1960s and 70s. Many times, the wireless cable operator is facing a multi-million dollar investment but is only assured of a three, four or five year lease, for example, because the licensee is nearing the end of its ten-year license term.

The Commission's proposals, with the exceptions and refinements discussed herein, are improvements that should be adopted.

Respectfully submitted,

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By: 

Robert J. Rini

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Stephen E. Coran

Rini & Coran, P.C.
Dupont Circle Building
1350 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 296-2007

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Their Attorneys